

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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JOSEPH LEDOUX, SR.,

Petitioner,

v.

KATHLEEN M. DENNEHY, et al.

Respondents.

Civil Action No. 04-10116-WGY

**RESPONDENTS' MOTION TO DISMISS PETITION
FOR WRIT OF HABEAS CORPUS AS TIME-BARRED**

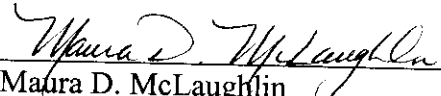
Pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure, the respondents, Kathleen M. Dennehy, Commissioner of Corrections, and Lois E. Robinson, Superintendent (hereinafter, collectively, "the respondents"), respectfully submit this motion to dismiss the petition for writ of habeas corpus filed by the petitioner, Joseph LeDoux, Sr. The petition must be dismissed as time-barred under 28 U.S.C. § 2244(d), the statute of limitations for federal habeas corpus petitions, which is contained in the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA"). Because the petitioner's conviction became final in 1995, more than a year before the passage of AEDPA, the petitioner was required to file his petition within a one-year grace period that expired on April 24, 1997. However, the petition was not filed in this Court until January 20, 2004, more than six and one-half (6 ½) years after the grace period expired. Accordingly, the petition must be dismissed as time-barred.¹

¹ The respondents' remaining defenses are not addressed here because the running of the statute of limitations mandates dismissal of the petition. In the event that this Court declines to dismiss the petition as time-barred, the respondents reserve the right, and request the opportunity, to file an answer and assert all other applicable defenses.

WHEREFORE, the respondents respectfully request that this Court dismiss this habeas petition on the grounds that it is time-barred.

Respectfully submitted,


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ATTORNEY GENERAL


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Dated: February 19, 2004

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the petitioner, Joseph LeDoux, Sr., on February 19, 2004, by depositing the copy in the office depository for collection and delivery by first-class mail, postage pre-paid, to him as follows: Joseph LeDoux, Sr., MCI-Plymouth Forestry, P.O. Box 207, South Carver, Massachusetts 02366.


Maura D. McLaughlin